

09/424498



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U.S. APPLICATION NO. 09/424,498	FIRST NAMED APPLICANT SCHWARZ	ATTY. DOCKET NO. H BHV-314.01
INTERNATIONAL APPLICATION NO. PCT/EP98/03090		
I.A. FILING DATE 05/26/98		PRIORITY DATE 05/28/97
DATE MAILED: 01/11/00		

PATENT GROUP  
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BOSTON MA 02109-2170

5071

# NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

- The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as
  - ☐ a Designated Office (37 CFR 1.494),
  - ☒ an Elected Office (37 CFR 1.495):
    - ☒ U.S. Basic National Fee.
    - ☒ Copy of the international application in:
      - ☐ a non-English language.
      - ☒ English.
    - ☐ Translation of the international application into English.
    - ☐ Oath or Declaration of inventors(s) for DO/EO/US.
    - ☐ Copy of Article 19 amendments.
    - ☐ Translation of Article 19 amendments into English.
    - ☒ The International Preliminary Examination Report in English and its Annexes, if any.
    - ☐ Translation of Annexes to the International Preliminary Examination Report into English.
    - ☒ Preliminary amendment(s) filed 24 Nov 99 and
    - ☐ Information Disclosure Statement(s) filed                      and
    - ☐ Assignment document.
    - ☐ Power of Attorney and/or Change of Address.
    - ☐ Substitute specification filed
    - ☐ Statement Claiming Small Entity Status.
    - ☒ Priority Document.
    - ☒ Copy of the International Search Report ☒ and copies of the references cited therein.
    - ☐ Other:
- The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:
  - Translation of the application into English. Note a processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.
    - ☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.
  - Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).
  - Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
    - ☐ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.
  - Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).
- Additional claim fees of \$                      as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due (37 CFR 1.492(g)). See attached PTO-875.

ALL OF THE ITEMS SET FORTH IN 2(a)-2(d) AND 3 ABOVE MUST BE SUBMITTED WITHIN ONE MONTH FROM THE DATE OF THIS NOTICE OR BY ☐ 21 OR ☒ 31 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

- Translation of the Annexes **MUST** be submitted no later than the time period set above or the annexes will be cancelled. Note processing fee will be required if submitted later than 30 months from the priority date.
- ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 1.494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

**A copy of this notice MUST be returned with this response.**

Enclosed: ☒ PCT/DO/EO/917 ☐ Notice of Defective Translation  
☐ PTO-875

FORM PCT/DO/EO/905 (December 1997)

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UNITED STATES DEPARTMENT OF COMMERCE  
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Washington, D.C. 20231

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U.S. APPLICATION NO.	SCHWARZ	H	BHV-314.01
5071		FIRST NAMED APPLICANT	ATTY. DOCKET NO.
PATENT GROUP FOLEY HOAG & ELIOT ONE POST OFFICE SQUARE BOSTON MA 02109-2170			
INTERNATIONAL APPLICATION NO.			
LA FILING DATE 98		PRIORITY DATE 97	
05/20/98		01/11/00	

DATE MAILED:

### NOTIFICATION OF A DEFECTIVE OATH OR DECLARATION

This application fails to contain an oath or declaration acceptable under 35 U.S.C. 371 (c)(4) for entry into the national stage in the United States of America. The period within which to correct these requirements and avoid abandonment is set in the accompanying Office action.

A new oath or declaration, identifying this application by the international application number and international filing date is required. The oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it:

1. ☒ is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68.
2. ☐ does not identify the specification to which it is directed.
3. ☐ does not identify the inventor(s).
4. ☐ does not identify the citizenship of each inventor.
5. ☐ does not state the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought.

FAILURE TO SUBMIT AN OATH OR DECLARATION IN COMPLIANCE WITH 37 CFR 1.497(a) AND (b) WITHIN THE TIME PERIOD SET WILL RESULT IN FAILURE TO ENTER THE NATIONAL STAGE AND THE ABANDONMENT OF THE APPLICATION.

Additionally, the oath or declaration does not comply with 37 CFR 1.63 in that it:

1. ☐ does not identify the city and state or city and foreign country of residence or each inventor.
2. ☐ does not state that the person making the oath or declaration:
  - a. ☐ has reviewed and understands the contents of the specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration.
  - b. ☐ acknowledges the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.
3. ☐ does not identify the foreign application for patent or inventor's certificate on which priority is claimed pursuant to 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application serial number, country, day, month, and year of its filing.
4. ☐ does not state that the person making the oath or declaration acknowledges the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and filing date of the continuation in part application which discloses and claims subject matter in addition to that disclosed in the prior application (37 CFR 1.63(d)).

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